

Appl. No. : 09/892,900  
Filed : June 26, 2001

### REMARKS

In response to the Office Action mailed July 12, 2004, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 14-17, 19, 23 and 24 remain pending, Claims 18, 20-22 and 25-27 being withdrawn as directed to a non-elected species. New Claims 28-36 have been added. Claims 14, 19 and 23 have been amended.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined.

### Claims 14-17, 19, 23 and 24 Are Allowable Over The Prior Art Of Record

Claims 14-17, 19 and 23 presently stand rejected under 35 U.S.C. § 102(b) as being anticipated by either Bessesen or LeFevre. Claims 23 and 24 presently stand rejected under 35 U.S.C. § 102(b) as being anticipated by Du Brau. Applicants respectfully submit that the claims as amended herein are allowable over the prior art of record and request reconsideration and withdrawal of the present rejections.

Initially, with respect to the rejection in light of Bessesen, Applicants maintain the position set forth in the Amendment mailed April 20, 2004 that Bessesen does not disclose an infusion pump including, among other limitations, a *platen* and does not disclose *complementary* non-planar pressure-exerting surfaces. Accordingly, Applicants submit that Bessesen does not anticipate Claims 14-17, 19 and 23.

However, in an effort to expedite allowance of the present application and in light of the rejections in view of LeFevre and Du Brau, Applicants have amended independent Claims 14, 19 and 23 to distinguish these references and further distinguish the Bessesen reference. Specifically, these claims have been amended to recite, among other limitations, that the total distance of movement of the platen in the first (infusion) direction is less than a dimension of the variable-volume space in a direction perpendicular to the first (infusion) direction. As described in the present specification, such an arrangement facilitates the infusion pump in being capable of maintaining a relatively constant output pressure throughout the dispensation cycle by permitting use of only a small portion of the free length of the spring(s) in moving the platen from its retracted position to its extended position during a dispensation cycle. *See pages 9 and 10 and pages 46 and 47 of the present specification.*

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In contrast, the devices of Bessesen, LeFevre and Du Brau all include a movable pressure member that moves relative to the body of the device a distance significantly *greater than* a dimension of the reservoir in a direction perpendicular to the direction of movement of the movable pressure member. With such an arrangement, the pressure exerted by the spring on the movable pressure member will tend to vary significantly throughout the movement of the movable pressure member. As discussed in the present specification, in connection with the infusion of a fluid to a patient, such a situation is undesirable. In addition, the variation in pressure as a result of significant extension of the spring is recognized by the inventor in the LeFevre reference and is compensated for by the provision of a tapered barrel. The tapered barrel reduces the frictional force acting on the piston as the force of the spring diminishes in an attempt to maintain a constant pressure.

For at least the reasons described above, Applicants respectfully submit that Claims 14, 19 and 23 are allowable over the Bessesen, LeFevre and Du Brau references, as well as being allowable over the other prior art of record. Claims 15-17 and 24 are allowable, not only because they depend from an allowable independent claim, but upon their own merit as well. Accordingly, Applicants respectfully request reconsideration and withdrawal of the present rejections.

#### **New Claims 28-36 Have Been Added**

New Claims 28-36 have been added. Each of these claims depends from one of allowable Claim 14, 19 or 23 and are also allowable on their own merit. New Claims 28-36 are fully supported by at least pages 9-10 and 46-47 of the application as filed. Consideration and allowance of Claims 28-36 is respectfully requested.

#### **CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call

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Applicant's attorney, Curtiss C. Dosier at the number provided below, to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 11, 2005

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